

REMARKS

[0003] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. Claims 19-29 are presently pending. Claims amended herein are: 19-29. Claims withdrawn or cancelled herein are: 1-18. No new claims are added herein.

Statement of Substance of Interview

[0004] The Examiner graciously met with me—the undersigned representative for the Applicant—on January 24, 2008. Applicant greatly appreciates the Examiner’s willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0005] During the interview, I discussed how the claims differed from the cited art, namely Yagasaki and Eyer. Without conceding the propriety of the rejections and in the interest of expediting prosecution, I also proposed several possible clarifying amendments.

[0006] I understood the Examiner to tentatively agree that the independent claims would be patentable over the cited art if amended as discussed during the interview.

[0007] Applicant herein amends the claims in the manner discussed during the interview. Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0008] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0009] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Claim Amendments

[0010] Without conceding the propriety of the rejections herein and in the interest of expediting prosecution, Applicant amends claims 19-29 herein. Applicant amends the claims in accordance with the above referenced discussion with the Examiner. Such amendments are made to expedite prosecution and quickly identify allowable subject matter. Such amendments are merely intended to clarify the claimed features, and should not be construed as further limiting the claimed invention in response to the cited references.

Formal Matters

Information Disclosure Statement

[0011] The Examiner objects to the information disclosure statement filed 9/10/2003 for failing to include a copy of a cited foreign patent document, particularly document number 0695094 having publication date 1/31/96. Applicant includes herewith, a copy of the document as originally cited on 6/26/2000 in Application Serial No. 09/205,875, which is the parent for this matter.

Non-statutory Double-Patenting Rejections

[0012] Based upon US Patent No. 6,637,031, issued from 09/205,875, the Examiner rejects claims 19-29 on the grounds of non-statutory obviousness-type double-patenting. Accordingly, Applicant submits herewith a terminal disclaimer to overcome the non-statutory obviousness-type double-patenting rejection.

Substantive Matters

Claim Rejections under § 103

[0013] Claims 19-29 are rejected under 35 U.S.C. §103. In light of the amendments presented herein and the decisions/agreements reached during the above-discussed Examiner interview, Applicant submits that these rejections are moot. Accordingly, Applicant asks the Examiner to withdraw these rejections.

[0014] The Examiner rejects claims 19-29 under §103. Applicant respectfully traverses the rejections. For the reasons set forth below, the Examiner has not made a prima facie case showing that the rejected claims are obvious.

[0015] Accordingly, Applicant respectfully requests that the § 103 rejections be withdrawn and the case be passed along to issuance.

[0016] The Examiner's rejections are based upon the following references in combination:

- **Yagasaki:** *Yagasaki, et al.*, US Patent No. 6,414,991 (issued July 2, 2002);
- **Eyer:** *Eyer, et al.*, US Patent No. 6,588,015 (issued July 1, 2002).

Overview of the Application

[0017] The Application describes a technology for presenting time-varying multimedia content. In one aspect, a lower quality data stream for an initial portion of the multimedia content is received. The lower quality data stream is received at a rate faster than a real-time playback rate for the multimedia content. The lower quality data stream was encoded at a bit rate below a transmission rate. A higher quality data stream of a

subsequent portion of the multimedia content is received. The higher quality data stream was encoded at a bit rate that equals the transmission rate. The initial portion and the subsequent portion of the multimedia content are presented at the real-time playback rate. Receiving the initial portion faster than the real-time playback rate provides for a reduction of latency due to buffering by a desired amount.

Cited References

[0018] The Examiner cites Yagasaki as the primary reference in the obviousness-based rejections. The Examiner cites Eyer as the secondary reference in the obviousness-based rejections.

Yagasaki

[0019] Yagasaki describes a technology for a group of video plane (GOV) layers in which the encoding start time is absolute time with an accuracy of one second is provided as a coded bit stream. A GOV layer can be inserted not only at the head of the coded bit stream but at an arbitrary position in the coded bit stream. The display time of each video object plane (VOP) included in the GOV layer is represented by modulo_time_base which represents absolute time in one second units with the encoding start time set as the standard, and VOP_time_increment, which represents in millisecond units, the time that has elapsed since the time point represented by the modulo_time_base.

Eyer

[0020] Eyer describes a technology for a digital radio broadcast system providing various interactive features, including skip forward and skip backward. In one embodiment, data is transmitted at a faster than real time rate and accumulated in a buffer at a receiver. The user can play a current track or skip to subsequent or earlier tracks. In another embodiment, two or more programming service streams (i.e., user channels) are communicated such that a user can move directly from a current track to the beginning of a track of another stream. In another embodiment, tiers of service levels are provided so that paying subscribers can bypass some or all of the commercial messages, while non-paying subscribers can not bypass the commercials. Replacement programming may be transmitted in a portion of the bandwidth of the free service. At a receiver, control data may be used with multimedia data to provide a multimedia clip which identifies features of a track, such as artist, song title or lyrics. Identifying data may be communicated with the tracks to allow a user to skip disliked tracks or recover favorite tracks on another programming service stream.

Obviousness Rejections

Lack of *Prima Facie* Case of Obviousness (MPEP § 2142)

[0021] Applicant disagrees with the Examiner's obviousness rejections. Arguments presented herein point to various aspects of the record to demonstrate that all of the criteria set forth for making a prima facie case have not been met.

[0022] The Examiner rejects claims 19-29 under 35 U.S.C. § 103(a) as being unpatentable over Yagasaki in view of Eyer. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims.

Independent Claim 19

[0023] The Examiner indicates (Action, pp. 3-4) the following with regard to this claim:

Regarding claim 19, Yagasaki teaches a method for streaming time-varying multimedia content, the method comprising: constructing an encoded bit stream for the content, the encoded bit stream having an initial portion represented with a low resolution encoding (base layer) and a subsequent portion represented with an encoding having a higher resolution (enhancement layer) than the low resolution encoding. (col. 12, lines 31-33, 44-46 and 53-55). Yagasaki does not teach transmitting the encoded bit stream to a client buffer so that the client buffer receives the stream faster than removing the stream from the client buffer during real-time playback of the content; wherein transmitting the stream faster than a real time playback rate reduces the latency due to buffering to near zero. However, Eyer teaches transmitting multimedia data at a data rate which is greater than a play rate of the received multimedia data temporarily stored in a buffer. See col. 2, lines 12-19, 21-23, 36-39; col. 4, lines 1-3. One skilled in the art would have realized that transmitting the multimedia data must be faster than a real-time playback rate in order to provide viewers the multimedia content for viewing smoothly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Yagasaki by transmitting multimedia data faster than a real-time playback rate in order to present the multimedia content to viewers for viewing smoothly.

[0024] The cited references, Yagasaki and Eyer do not disclose at least the following from claim 19 as previously filed and with emphasis added:

constructing an encoded bit stream for the content, the encoded bit stream having an **initial portion** represented with a low resolution encoding and a **subsequent portion** represented with an encoding having a higher resolution than the low resolution encoding; and

transmitting the encoded bit stream to a client buffer so that the client buffer receives the **initial portion faster than the initial portion is removed from the client buffer during real-time playback** of the content;

wherein transmitting the initial portion faster than a real-time playback rate **reduces the latency due to buffering to near zero**

[0025] Instead Yagasaki identifies progressive image transmission (PIT). In PIT several layers of content exist and are transmitted together. In PIT there is no “initial portion” which is transmitted so that the “client buffer receives the initial portion faster than the initial portion is removed from the client buffer during real-time playback of the content; wherein transmitting the initial portion faster than a real-time playback rate reduces the latency due to buffering to near zero” as claimed.

Independent Claims 23, 24, and 28

[0026] The subject matter of independent claims 23, 24, and 28 is also not disclosed by Yagasaki and Eyer. Applicant submits that independent claims 23, 24, and 28 are allowable for at least similar reasons at claim 19, and Applicant respectfully requests that claims 23, 24, and 28 be passed to issuance.

[0027] Thus, as shown above, the combination of Yagasaki and Eyer does not disclose all of the claimed elements and features of these claims. Accordingly, Applicant asks the Examiner to withdraw the rejections of these claims.

Dependent Claims 20-22, 25-27, and 29

[0028] These claims ultimately depend upon independent claims 19, 24, and 28. As discussed above, claims 19, 24, and 28 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Dependent Claims

[0029] In addition to its own merits, each dependent claim is allowable for the same reasons that its base claim is allowable. Applicant requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

Conclusion

[0030] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

Lee & Hayes, PLLC



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